



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Parts 100 and 165

[Docket Number USCG-2014-0717]

RIN 1625-AA08; 1625-AA00

Special Local Regulation and Safety Zone; Marine Events in
Captain of the Port Long Island Sound Zone

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a special local regulation for one marine event and establishing one safety zone for one marine event within the Captain of the Port (COTP) Long Island Sound (LIS) Zone. This temporary final rule is necessary to provide for the safety of life on navigable waters during these events. Entry into, transit through, mooring or anchoring within these regulated areas and safety zone is prohibited unless authorized by COTP Sector Long Island Sound.

DATES: This rule is effective from September 6, 2014 to September 14, 2014.

ADDRESSES: Documents mentioned in this preamble are part of docket [USCG-2014-0717]. To view documents mentioned in this preamble as being available in the docket, go to

<http://www.regulations.gov>, type the docket number in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or e-mail Petty Officer Ian M. Fallon, Prevention Department, Coast Guard Sector Long Island Sound, (203)468-4565, Ian.M.Fallon@uscg.mil. If you have questions on viewing or submitting material to the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone (202) 366-9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

COTP	Captain of the Port
DHS	Department of Homeland Security
FR	Federal Register
NAD 83	North American Datum of 1983

A. Regulatory History and Information

The Great Peconic Race is a first time event with no regulatory history.

The Region 8 Beach Brawl is a first time event with no regulatory history.

Under 5 U.S.C. 553(b) (B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because doing so would be impracticable and contrary to the public interest. There is insufficient time to publish a NPRM and solicit comments from the public before these events take place. Thus, waiting for a comment period to run would inhibit the Coast Guard's ability to fulfill its mission to keep the ports and waterways safe.

Under 5 U.S.C. 553(d) (3), and for the same reasons stated in the preceding paragraph, the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the Federal Register.

B. Basis and Purpose

The legal basis for this temporary rule is 33 U.S.C. 1231, 1233; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05-1, 6.04-1, 6.04-6 and 160.5; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1 which collectively authorize the Coast Guard to define regulatory special local regulations and safety zones.

As discussed in the Regulatory History and Information section, two regattas will take place in the COTP Long Island Sound Zone between September 6, 2014 and September 14, 2014. The COTP Long Island Sound has determined that one special local regulation and one safety zone established by this temporary

final rule are necessary to provide for the safety of life on navigable waterways during those events.

The Great Peconic Race course itself will start and end at Wades Beach on Shelter Island proceeding in a counter-clockwise direction to the east around Mashomack Point, and encompass a complete circumnavigation of Shelter Island, a total distance of 19 miles. On the south shore two event safety vessels will be present with a member of the south ferry staff with a red flag to stop and then wave paddlers on for safe crossing. One safety boat will be present on the north shore to assist paddlers as well.

The Region 8 Beach Brawl is a two day marine event held close to the shore of Savin Rock Beach in West Haven, CT. During the event, multiple jet-skis will be running a closed loop course approximately 600 feet by 1000 feet in size. There will be three support craft supervising the event and will be using flags to control the race participants.

C. Discussion of the Final Rule

The Coast Guard is establishing one special local regulation for one regatta, and one safety zone for another regatta, to provide for the safety of life on navigable waters during these events. This rule will be effective from September 6, 2014 to September 14, 2014.

The special local regulation and safety zone for these

events covered by this regulation will be enforced on the dates, times, and locations listed in the table below.

Regatta Event		
1	Great Peconic Race	<ul style="list-style-type: none">• Date: September 14, 2014• Time: 7:30 a.m. to 4:30 p.m.• Location: There will be two areas created for the special local regulation. The first area will encompass all navigable waters along the north shore of Shelter Island, NY including Shelter Island Sound, Pipes Cove, Greenport Harbor and Dering Harbor. The second area will encompass all navigable waters along the south shore of Shelter Island, NY including Shelter Island Sound and Smith Cove.
2	Region 8 Beach Brawl	<ul style="list-style-type: none">• Date: September 6, 2014• Time: 8:00 a.m. to 4:00 p.m.• Date: September 7, 2014• Time: 8:00 a.m. to 4:00 p.m.• Location: Savin Rock Beach, West Haven, CT

For the special local regulation created in support of the Great Peconic Race under the general regulations in §100.901 of this part, vessels transiting within the regulated area shall travel at a no-wake speed and remain vigilant at all times. Additionally, recreational vessels shall yield right-of-way for event participants and event safety craft and shall follow directions given by event representatives during the event. Commercial vessels will have right-of-way over event participants, and event safety craft.

For the safety zone created in support of the Region 8

Beach Brawl this rule prevents vessels from entering, transiting, mooring or anchoring within the area specifically designated as a safety zone.

Public notifications will be made to the local maritime community prior to the event through the Local Notice to Mariners and Broadcast Notice to Mariners.

D. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes or executive orders.

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders.

The Coast Guard determined that this rulemaking is not a significant regulatory action for the following reasons: the enforcement of the regulated area and safety zone will be relatively short in duration. Also, persons or vessels desiring

entry into a regulated area or a deviance from the stipulations within a regulated area may be authorized to do so by the COTP Sector Long Island Sound or designated representative. Additionally, persons or vessels desiring to enter the safety zone may do so with permission from the COTP Sector Long Island Sound or designated representative. Furthermore, the special local regulation and the safety zone are designed in a way to limit impacts on vessel traffic, permitting vessels to navigate in other portions of the waterways not designated as a regulated area or as a safety zone. Finally, to increase public awareness of the special local regulation and the safety zone, the Coast Guard will notify the public of the enforcement of this rule via appropriate means, such as via Local Notice to Mariners and Broadcast Notice to Mariners.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601-612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard received zero comments from the Small Business Administration on this rule. The Coast Guard certifies under 5

U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to enter, transit, anchor or moor within the regulated area or the safety zone during the periods of enforcement from September 6, 2014 to September 14, 2014. However, this temporary final rule will not have a significant economic impact on a substantial number of small entities for the same reasons discussed in the REGULATORY PLANNING AND REVIEW section.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT, above.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small

business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

4. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520.).

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and determined that this rule does not have implications for federalism.

6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the "FOR FURTHER INFORMATION CONTACT" section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

8. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

9. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

10. Protection of Children from Environmental Health Risks

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to

safety that might disproportionately affect children.

11. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

12. Energy Effects

This rule is not a "significant energy action" under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

13. Technical Standards

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule

involves the establishment of one special local regulation and one safety zone. This rule is categorically excluded from further review under paragraph 34(g) and (h) of Figure 2-1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under ADDRESSES. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

List of Subjects

33 CFR Part 100

Marine safety, Navigation (water), Reporting and recording requirements, Waterways.

33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, and Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR parts 100 and 165 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233.

2. Add §100.35T01-0717 to read as follows:

§100.35T01-0717 Special Local Regulation; Marine Event in

Captain of the Port Long Island Sound Zone.

(a) Regulations. The general regulations contained in 33 CFR 100.901 as well as the following regulations apply to the event listed in the TABLE 1 of §100.35T01-0717. These regulations will be enforced for the duration of the event.

(b) Enforcement period. This rule will be enforced on the date and time listed for the event in TABLE 1 of §100.35T01-0717.

(c) Definitions. The following definitions apply to this section:

(1) Patrol Commander. Patrol Commander means a Coast Guard commissioned, warrant, or petty officer who has been designated by the Captain of the Port to monitor a regatta area, permit entry into the regatta area, give legally enforceable orders to persons or vessels within the regatta area, and take other actions authorized by the Captain of the Port. The Patrol Commander will be aboard either a Coast Guard or Coast Guard Auxiliary vessel. The Patrol Commander may be contacted on Channel 16 (156.8 MHZ) by the call sign "Coast Guard Patrol Commander."

(2) Official patrol vessels. Official patrol vessels may consist of any Coast Guard, Coast Guard Auxiliary, state, or local law enforcement vessels assigned or approved by the COTP.

(d) Enforcement. Upon being hailed by an official patrol

vessel or the designated representative, by siren, radio, flashing light or other means, the operator of the vessel shall proceed as directed. Failure to comply with a lawful direction may result in expulsion from the area, citation for failure to comply, or both.

(e) Locations. The regulated area for the regatta is described in TABLE 1 of §100.35T01-0717.

TABLE 1 to §100.35T01-0717

Regatta Event		
1	Great Peconic Race	<ul style="list-style-type: none"> • Date: September 14, 2014 • Time: 7:30 a.m. to 4:30 p.m. • Location: All navigable waters surrounding, Shelter Island, NY within two areas. First area is along the north shore of Shelter Island and includes Shelter Island Sound, Pipes Cove, Greenport Harbor and Dering Harbor. Starting from a point on land at Beach Point at position 41°06'25.66"N; 072°20'04.95"W then straight across Shelter Island Sound to a point on land near Cleaves Point at position 41°06'43.70"N; 072°20'31.99"W then west along the shoreline to a point on land near Brick Cove Marina at position 41°04'44.91"N; 072°23'06.25"W then straight across Shelter Island Sound to a point on land near Jennings Point at position 41°04'20.46"N; 072°22'57.60"W then east along the shoreline back to the point of origin. (NAD 83). The second area is along the south shore of Shelter Island and includes Shelter Island Sound and Smith Cove. Starting at a point on land near West Neck Point at position 41°02'48.14"N; 072°20'19.34"W then straight across Shelter Island Sound to a point on land near Gleason Point at position 41°02'04.91"N; 072°19'54.47"W then east along the shoreline to a point on land at position 41°01'07.56"N; 072°17'53.34"W then straight across Smith Cove to a point on land near Mashomack Point at position 41°01'44.68"N; 072°16'54.87"W and then west along the shoreline to a point on land at position 41°02'48.94"N; 072°19'49.98"W and then across West Neck Harbor to the point of origin. (NAD 83) All positions are approximate. • Additional stipulations: Recreation vessel speed in the regulated area is restricted to no wake speed or 6 knots, whichever is slower. Recreational vessels shall not anchor, block, loiter, or impede the transit of event participants or official patrol vessels in the regulated areas unless authorized by COTP or designated representative. Recreational vessels shall yield right-of-way for event participants and event safety craft and shall follow directions given by event representatives during the event. Commercial vessels will have right-of-way over event participants, and event safety craft.

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

3. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 46 U.S.C. Chapters 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; Pub. L. 107-295, 116 Stat. 2064; and Department of Homeland Security Delegation No. 0170.1

4. Add §165.T01-0717 to read as follows:

§165.T01-0717 Safety Zones; Marine Event in Captain of the Port Long Island Sound Zone.

(a) Regulations. The general regulations contained in 33 CFR 165.23 as well as the following regulations apply to the events listed in the TABLE 1 of §165.T01-0717.

(b) Enforcement period. This rule will be enforced on the dates and times listed for each event in TABLE 1 of §165.T01-0717.

(c) Definitions. The following definitions apply to this section:

(1) Designated representative. A "designated representative" is any commissioned, warrant or petty officer of the U.S. Coast Guard who has been designated by the Captain of the Port (COTP), Sector Long Island Sound, to act on his or her behalf. The designated representative may be on an official patrol vessel or may be on shore and will communicate with vessels via VHF-FM radio or loudhailer. While members of the

Coast Guard Auxiliary will not serve as the designated representative, they may be present to inform vessel operators of this regulation.

(2) Official patrol vessels. Official patrol vessels may consist of any Coast Guard, Coast Guard Auxiliary, state, or local law enforcement vessels assigned or approved by the COTP.

(d) Vessels desiring to enter or operate within a safety zone should contact the COTP or the designated representative via VHF channel 16 or by telephone at (203) 468-4401 to obtain permission to do so. Vessels given permission to enter or operate in a safety zone must comply with all directions given to them by the COTP Sector Long Island Sound or the designated on-scene representative.

(e) Upon being hailed by an official patrol vessel or the designated representative, by siren, radio, flashing light or other means, the operator of the vessel shall proceed as directed. Failure to comply with a lawful direction may result in expulsion from the area, citation for failure to comply, or both.

TABLE 1 to §165.T01-0717

	Regatta Event
1 Region 8 Beach Brawl	<ul style="list-style-type: none">• Date: September 6, 2014.• Time: 8:00 p.m. to 4:00 p.m.• Date: September 7, 2014.• Time: 8:00 p.m. to 4:00 p.m.• Location: All navigable waters in New Haven Harbor, West Haven, CT encompassing an area starting from a point on land at 41°15'18"N; 072°57'13"W then southeast to point at 41°15'12"N; 072°57'13"W the northeast to point at 41°15'15"N; 072°57'59"W the northwest to a point on land at 41°15'21"N; 072°57'02"W then southwest along shoreline back to point of origin. (NAD 83) All positions are approximate.

Dated: August 14, 2014

H. L. MORRISON
Commander, U. S. Coast Guard
Acting Captain of the Port Sector Long Island Sound

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